

REMARKS**I. OVERVIEW**

Claims 1-7, 9-10 and 12-14 are pending in the present application. Claims 8 and 11 have been cancelled. It is noted that claims 15-20 have been withdrawn without prejudice. This is an earnest attempt to place the application in form for allowance. Reconsideration is respectfully requested.

II. ALLOWABLE CLAIMS

Claims 11-14 have been found to be allowable if rewritten to include all limitations of their base claim and any intervening claims. Claim 1 has been amended to include the limitations of claim 11, which was dependent upon claim 8 which in turn was dependent upon claim 1. It is therefore respectfully submitted amended claim 1 is allowable.

The dependency of claim 12 has been changed from claim 11 (now cancelled) to amended claim 1. Claims 13 and 14 are dependent upon claim 12. It is therefore respectfully submitted that claims 1, 12-14 are allowable.

It is further respectfully submitted that allowability of claim 1 places claims 2-7, 9, and 10 in allowable form as they are dependent from now allowable amended claim 1.

III. CLAIM OBJECTION

The Office Action has objected to the dependency of claim 10. This has been corrected.

IV. OBJECTION TO SPECIFICATION

The Examiner has requested a minor typographical correction at page 9, line 21. This has been done.

V. 35 U.S.C. § 112

An antecedent basis issue has been raised regarding claim 6. This has been corrected.

VI. 35 U.S.C. § 101 REJECTION

The Examiner has raised a § 101 rejection to claim 1. It is respectfully submitted this is moot in light of the fact that claim 1 has been amended into allowable form.

The rejection is, however, respectfully traversed. Amended claim 1 does contain specific pre- and post-processing steps, including the generation of a report. Claim 1 defines a concrete, useful, and tangible result. Claim 1 discusses concrete, tangible surveying of a set of subject matter experts. It specifies defining a set of observable behavioral characteristics relevant to performance in jobs, and defining a job based on surveying. As supported in Applicants' Specification, the method is respectfully submitted to be a better way of allowing actual or predicted performance in a job to be derived. The prior art focused on how individuals view the job. This method focuses on defining the job.

Applicants respectfully direct the Examiner to the most recent U. S. Supreme Court authority on eligible subject matter for patent. *See JEM Ag Supply, Inc. v. Pioneer Hi-Bred Int'l, Inc.*, 534 U.S. 124, 122 S. Ct. 539 (2001). That case noted that the language at § 101 is extremely broad. In addition, the highest court also recognized that § 101 is a dynamic provision designed to encompass new and unforeseen inventions. It is respectfully submitted the Supreme Court's most recent articulation of 35 U.S.C. § 101 appears to provide for a broader view of patentable subject matter than that which the Examiner articulates. However, in order to advance prosecution of the present application, claim 1 has been amended to recite generation of a "report" based on surveying. Support for this can be found throughout the application.

Applicants respectfully submit that a report based on the surveying provides a concrete, tangible result. Its usefulness is made clear in the Specification.

VII. 35 U.S.C. § 102 REJECTION

The Examiner has rejected claims 1-6 as being anticipated by Barney et al., U. S. Patent No. 6,070,132. This rejection is respectfully traversed. However, the rejection is respectfully submitted to be moot in light of the amendment to the claims, placing claim 1 in allowable form.

VIII. 35 U.S.C. § 103 REJECTIONS

Claims 7, 9, and 10 have been rejected as obvious based on Barney in view of either Lautzenheiser, U. S. Patent No. 6,574,621, or Hayward, U. S. Patent No. 5,574,828. These rejections are respectfully traversed but also submitted to be moot in light of the amendments to the claims.

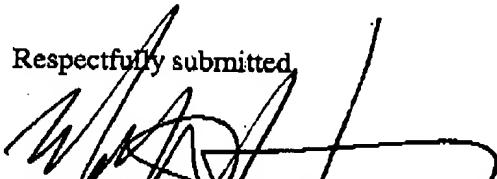
IX. CONCLUSION

It is respectfully submitted that this response places the application in form for allowance without prejudice to pursuing additional claims in a related application. It is noted that claims 15-20 have been withdrawn without prejudice. This response also amends certain claims and cancels certain claims without prejudice to pursue them in a related application.

A three-month extension of time is herein requested and authorization is given to charge the required amount of \$475.00 to Deposit Account No. 26-0084.

No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,


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